

## REQUEST FOR COUNCIL ACTION

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MEETING

DATE: 2-19-03

AGENDA SECTION: Consent Agenda	ORIGINATING DEPT: PLANNING	ITEM NO. D-14
ITEM DESCRIPTION: Decision on the need for an Environmental Impact Statement for the Maine Street development.		PREPARED BY: Mitzi A. Baker, Senior Planner

February 13, 2003

An EAW was prepared for the Maine Street development to determine the potential environmental effects of mixed commercial/industrial development.

The 30 day comment period on the EAW expired on February 5, 2003. Attached are the comments received. A written response to the MPCA comments is enclosed.

Minnesota Rules require that a decision on this matter must be made by the RGU (Common Council) no later than 30 days after February 5, 2003 (end of comment period).

*Staff recommends a negative finding on the need for an Environmental Impact Statement (EIS).*

### Council Action Needed:

*Adoption of a resolution setting forth the City's declaration on the EAW adequacy. The resolution should include specific findings. This resolution will be transmitted by the Planning Department to the Environmental Quality Board. Staff recommends a negative finding on the need for an Environmental Impact Statement (EIS).*

### Attachments:

1. Copy of February 13, 2003 memo from Planning Staff which includes a copy of the Maine Street EAW and comment letters received.

### Distribution:

1. City Clerk
2. City Administrator
3. City Attorney
4. Planning Department File
5. Applicant: This item will be considered some time after 7:00 p.m. on February 19, 2003 in the Council/Board Chambers
6. Yaggy Colby Associates

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**TO:** Rochester Common Council

**FROM:** Mitzi A. Baker, Senior Planner

**DATE:** February 12, 2003

**RE:** Environmental Assessment Worksheet (EAW) for Maine Street Development

#### **Background:**

The 1973 Minnesota Environmental Policy Act, administered statewide through the Environmental Quality Board, is the basis for the present Environmental Review Program of the State of Minnesota. Minnesota Rules 4410.0200 - .7900 were promulgated to administer the mandates of the Policy Act, spell out the specific environmental review procedures, and define when and how they must be employed. The intent of the environmental review program is identify early the potential impacts of a project and provide time for the decision makers to require that mitigative measures are incorporated into the project design before local permits are granted.

The first level of environmental review under the program is known as an Environmental Assessment Worksheet or "EAW". The specific content, environmental scope, and procedures for an EAW are specified in Minnesota Rules. The rules mandate what type of projects must go through the EAW process and who will act as the responsible unit of government to determine if additional environmental review is necessary in the form of a much more detailed Environmental Impact Statement or "EIS".

The Maine Street development project exceeds a mandatory EAW category in that it will result in the construction of new commercial or industrial uses which will be in excess of 300,000 sq. ft. (Minnesota Rules 4410.4300 Subp. 14) and will also result in the permanent conversion of 80 or more acres of agricultural land to a more intensive use (Minnesota Rules 4410.4300 Subp. 36).

The rules assign the responsibility for the EAW preparation and determination of adequacy to the local unit of government which is charged with the responsibility to approve or deny permits for the project to proceed. In this case, the local responsible governmental unit would be the Rochester Common Council.

#### **EAW Process:**

The Environmental Assessment Worksheet for Maine Street was transmitted to the Environmental Quality Board on January 2, 2003. The Planning Department notified and provided a copy of the EAW to the various state and federal agencies prescribed by Minnesota Rules. Copies of the EAW were made available to the City Clerk, County Administrator, and Public Library for public display, as well as a copy at the Planning Department. A press release



was made to the Rochester Post Bulletin, which explained the procedures for submitting comments.

On January 6, 2003, the notice of availability was published in the EQB Monitor. The 30 day comment period expired on February 5, 2003. Comments were received from the following agencies regarding this EAW:

1. Minnesota Department of Natural Resources (see attached)
2. Minnesota Historical Society (see attached)
3. Minnesota Department of Transportation (see attached)
4. Minnesota Pollution Control Agency (see attached)
5. Rochester Public Works (see attached)

#### **Rochester's Responsibilities in the Process:**

Under Minnesota Rules the City of Rochester is the responsible governmental unit (RGU) to determine the need for further environmental review of a project by preparation of an Environmental Impact Statement (EIS). The decision facing the City is whether a project has the potential for significant environmental effects and compare the impacts that may be expected to occur from the project with four criteria outlined in the rules (and listed below).

This report could act as a record of the findings made by the City and a basis for the decision that is made. The City must make either a negative or a positive declaration. If a negative declaration is made on the need for an EIS, then the City must notify all persons or agencies that originally received copies of the EAW. The Environmental Quality Board shall publish the decision in the EQB Monitor.

If a positive declaration is made, meaning an EIS must be prepared, then it should include the scope of what specific issues must be addressed in the Environmental Impact Statement. A positive declaration should include the time, date and location of the public meeting to discuss the scope of the EIS.

#### **Response to Comments:**

Under the environmental review process, the RGU's record must provide written response to substantive comments received during the EAW comment period. In this instance we received written comments from those agencies and individuals listed above.

Please see the attached information from Yaggy Colby Associates providing responses to several comments received.

In addition to the responses the consultant, staff offers the following. Regulatory agencies oversee activities related to wetlands. Locally, the LGU (City of Rochester) administers the Wetland Conservation Act and the CORPS of Engineers administers Section 404 Federal Rules.

Any impacts to Wetlands will require compliance with existing regulations, per those regulations. Though it is ideal to review a completed delineation, avoidance plan and/or replacement plan concurrent with an EAW, this does not appear to be a requirement of the EAW. The appropriate regulatory agencies will have opportunities to review Wetland related applications in the future and will be able to subject those applications to the technical evaluation required.

**Criteria for Determining Significant Environmental Effects:**

In deciding whether a project has the potential for significant environmental effects, the City must consider the following factors as outlined in Minnesota Rules 4410.1700 subp. 7:

- A. Type, extent, and reversibility of environmental effects;
- B. Cumulative potential effects of related or anticipated future projects;
- C. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and
- D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EIS's.

**Findings:**

The Planning Staff recommends that based on the following findings that the City make a negative declaration on the need for an EIS for Maine Street Development and that the project does not have the potential for significant environmental effects:

1. The anticipated environmental effects of this project are found to be similar to those experienced with other development in the City of Rochester. There are a number of policies and plans adopted by the City of Rochester that require detailed local review of traffic, storm water management and water quality, wetland and other issues when a development is proposed. In addition, the Rochester Zoning Ordinance and Land Development Manual includes regulations for minimum open space, setbacks and buffers, maximum noise and lighting, as well as floor area ratio. Wetlands on-site require further investigation and are subject to existing regulations, which will regulate any proposed impacts to the Wetlands.
2. The anticipated cumulative loss of agricultural lands within the urban service area of the City of Rochester (where sewer and water service is available) to urban land uses is an anticipated effect of the orderly growth of the City. Land use policies direct development to growth centers such as Rochester to reduce the pressure on agricultural lands in the outlying area to be converted to residential uses. The more efficient use of land for development purposes where increased densities can be realized because of sewer and water availability is expected to help conserve truly prime agricultural areas.
3. Water quality of surface waters from runoff or waste waters from the site should not be significantly degraded because of this project. Regional Storm Water Ponds are planned in the immediate areas. The Rochester Zoning Ordinance and Land Development Manual provides for an ongoing regulatory authority of the City over erosion control practices. Wastewater from this project will be treated at the City of Rochester Wastewater Treatment Plant, which is capable of accepting the estimated amounts of wastewater generated by this project.
4. Dust and noise which will be generated because of the construction of this project will be no more than typical for other residential or commercial development. The City of Rochester has a noise ordinance, which will protect area residents from unreasonable noise from 10:00 p.m. to 7:00 a.m. Methods for controlling dust will need to be implemented by the developer. Detailed grading and drainage plans will need to be

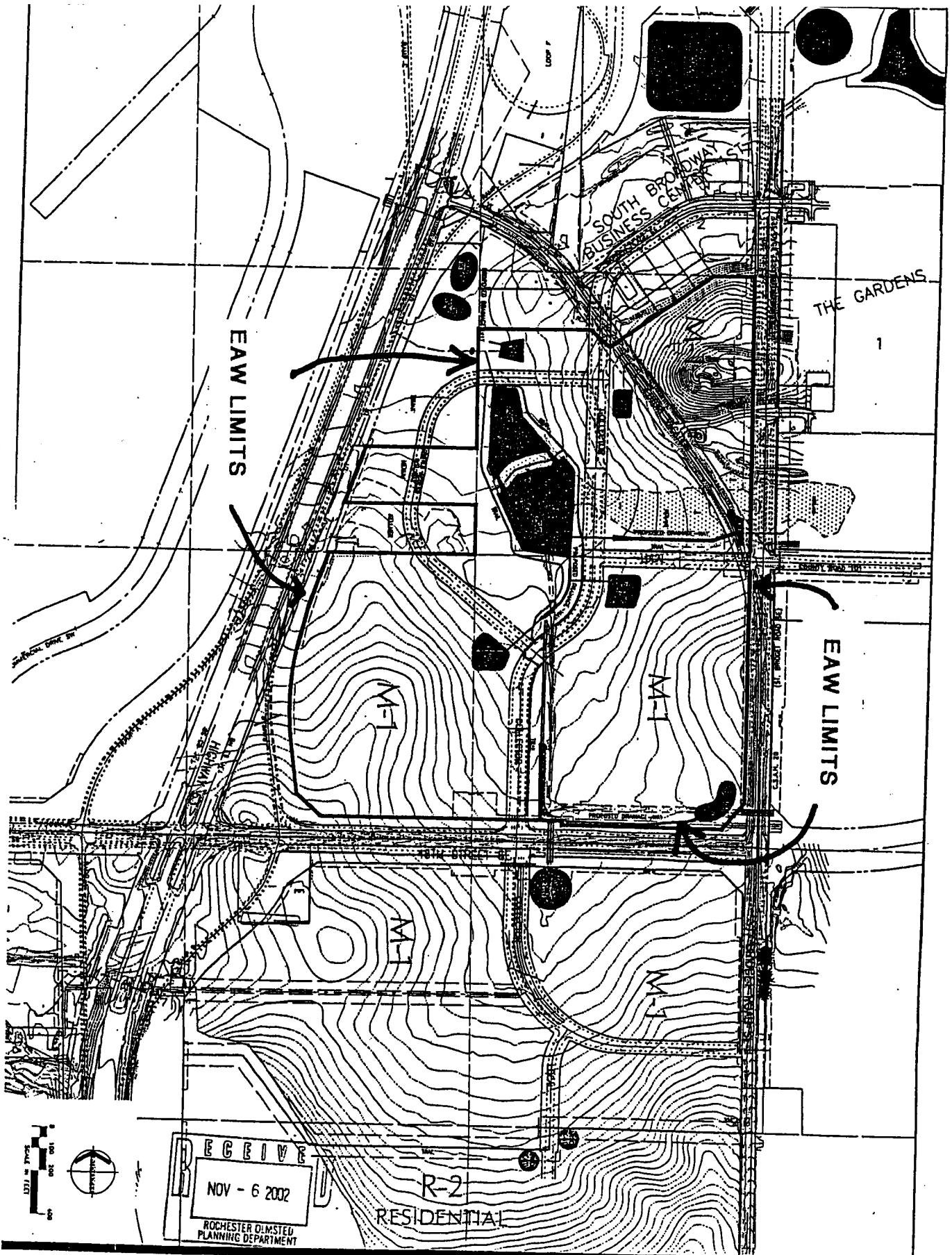
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approved by the City prior to construction and will need to incorporate erosion control measures.

5. This property is within the City of Rochester 25 year Urban Service Area according to the Olmsted County Land Use Plan. Cumulative effects of development within the Urban Service Area will include the loss of prime farmland and wildlife habitat. The loss of terrestrial habitat and prime farmland caused by this development should actually help the efforts to retain more significant habitats and farmlands in less developed areas of the County by removing residential pressures and concentrating them in planned areas where the density of development creates a more efficient use of land.

**ATTACHMENTS:**

1. Maine Street EAW
2. Letters from Public Agencies
3. Responses Prepared by Yaggy Colby Associates



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**SITE PLAN**

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